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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/670,736	09/27/2000	William J. Rooney	POU920000103US1	7694

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EXAMINER

SORRELL, ERON J

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 09/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/670,736

Applicant(s)

ROONEY ET AL.

Examiner

Eron J Sorrell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspond nc address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8, 16 and 24 is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-15 and 17-23 is/are rejected.
- 7) ☒ Claim(s) 25-27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,2,4,5,9,10,12,13,17,18,20, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Kelley et al. (U.S. Patent No. 6,542,469 hereinafter "Kelley").

3. Referring to method claim 1, system claim 9, and article of manufacture claim 17, Kelley teaches a method for selecting one of multiple proposed paths to a device comprising:

for each proposed path, determining a number of components the proposed path shares with existing paths to the, wherein the components comprise points of failure such that if one component fails then the path including the component fails (see lines 52-65 of column 2); and

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using the determined number of shared components for each proposed path to select one proposed path (see lines 52-65 of column 2).

4. Referring to claim method claim 2, system claim 10, and article of manufacture claim 18, Kelley teaches using the determined number of shared components to select one proposed path comprises selecting the proposed path having a least number of shared components with existing paths (see lines 52-65 of column 2), and wherein the selected proposed path is selected to provide an additional path to the device (see lines 66 and 67 of column 1).

5. Referring to method claim 4, system claim 12, and article of manufacture claim 20, Kelley teaches each path includes an adapter in a computer and an interface port in the device (see lines 20-26 of column 4; Note that the nodes are processors for transferring or processing data and are connected to each other with the links and the adapter in the computer and interface port for the device simply allow the components to be connected), wherein determining the number of components the proposed paths has in common with existing paths further comprises determining a number of components the adapter in the

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proposed path shares with the adapters of existing paths to the device and determining the number of components the proposed path shares with the interface ports with existing paths (see lines 52-65 of column 2).

6. Referring to method claim 5, system claim 13, and article of manufacture claim 21, Kelley teaches each path includes a source port and destination port on a switch, wherein the adapter for a path connects to the source port of the switch and wherein the interface port for the path connects to the destination port of the switch (see lines 20-26 of column 4 and figure 1), wherein determining the number of components the proposed path has in common with existing paths further comprises determining components on the switch the proposed path has in common with existing paths (see lines 52-65 of column 2).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

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art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3,11, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelley in view of Stripe et al (U.S. Patent No. 5,805,578 hereinafter "Stripe").

9. Referring to method claim 3, system claim 11, and article of manufacture claim 19, Kelley fails to teach the proposed path with the greatest number of shared components is eliminated, however Kelley does teach only the minimal path is selected.

Stripe teaches, in an analogous system, releasing paths as a result of path computation (see lines 21-24).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system and method of Kelley with the teachings of Stripe such that the paths with the greatest number of shared components with existing paths is selected as the path to remove. One of ordinary skill in the art would have been motivated to make such modification in order to minimize the memory requirements of storing non-optimal path information.

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10. Claims 6,14, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelley in view of Spagnolo et al. (U.S. Patent No. 6,526,024 hereinafter "Spagnolo").

11. Referring to method claim 6, system claim 14, and article of manufacture 22, Kelley fails to disclose determining whether the source port and destination port of the proposed path is in a port card including the source or destination port of any existing paths, however Glassen does disclose the paths comprising switches.

Spagnolo discloses a switch with port cards capable of sending and receiving data packet fragments (see lines 32-52 of column 1).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to further modify the system and method of Shank such that the switches comprise port cards and determining whether the source port and destination port of the proposed path is in a port card including the source or destination port of any existing paths. One of ordinary skill in the art at the time of the applicant's invention would have been motivated to make such modification in order to send and receive fragments of packets increasing the flexibility of system.

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12. Claims 7, 15, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelley in view of Burton et al. (U.S. Patent No. 6,393,535).

13. Referring to method claim 7, system claim 15, and article of manufacture claim 23, Kelley fails to teach the device comprises a control unit providing access to a storage space, and wherein each proposed path connects one adapter in the computer with one interface port in the control unit, however Kelley does suggest the disclosed system and method can be used in any network (see lines 23-26 of column 4).

Burton teaches, in an analogous system, a device comprising a control unit providing access to a storage space (see item labeled 12 in figure 1).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Kelley with the teachings of Burton such that the device comprises a control unit providing access to a storage space, and wherein each proposed path connects one adapter in the computer with one interface port in the control unit. One of ordinary skill in the art would have been motivated to make

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such modification in order to use the system in a storage area network.

Allowable Subject Matter

14. Claims 25-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. Claims 8,16, and 24 are allowed.

Response to Arguments

16. Applicant's arguments with respect to claims 1,9, and 17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

Applicant must also show how the amendments avoid such references and objections. See 37 CFR § 1.111(c).

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The following reference is cited to show the state of the art as it pertains to path selection methods and systems:

U.S. Patent No. 5,687,319 to Cook

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eron J Sorrell whose telephone number is 703 305-7800. The examiner can normally be reached on Monday-Friday 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A Gaffin can be reached on 703 308-3301. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 305-3900.

EJS
September 3, 2003


KIM HUYNH
PRIMARY EXAMINER

9/4/03